

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:07-00076

PAUL W. LAWSON

MEMORANDUM OPINION AND ORDER

Pending is defendant's motion to withdraw his previously filed "Notice of Intent to Appeal" (Doc. No. 69). (Doc. No. 92.) Following the filing of the Notice on October 2, 2007, the United States Court of Appeals for the Fourth Circuit docketed defendant's appeal on October 15, 2007. (See Doc. No. 75.)

Federal Rule of Appellate Procedure 42 provides that a district court may dismiss an appeal on the motion of the appellant "[b]efore [it] has been docketed by the circuit clerk." Fed. R. App. P. 42(a). After the appeal has been docketed, authority to dismiss resides with the appellate court pursuant to Federal Rule of Appellate Procedure 42(b). As such, the court finds that it is without authority to adjudicate defendant's motion. (Doc. No. 92.)

The Clerk is directed to send copies of this Memorandum Opinion and Order to all counsel of record and to the Probation Office of this court.

It is **SO ORDERED** this 23rd day of January, 2008.

ENTER:



David A. Faber
United States District Judge